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MR. J. R. INGERSOLL'S

REPORT

OF THE

MASSACHUSETTS RESOLUTIONS.

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28th Congress, 1st Session. Rep. No. 404. Ho. of Reps.

[MR. J. R. INGERSOLL'S REPORT.]

MASSACHUSETTS RESOLUTIONS.

April 4, 1844.
Read, and laid upon the table.

Mr. J. R. Ingersoll, *from the Select Committee of nine, appointed on the 22d of December last, on the Resolutions of the Legislature of Massachusetts, in behalf of himself and Mr.* Garrett Davis, *made the following*

REPORT:

The Legislature of one of the sovereign States of the Union has adopted certain resolutions, which have been formally communicated to Congress. The object of them is declared to be to recommend for its consideration an amendment of the Constitution. This amendment will consist chiefly of striking form the 3d clause of the 2d section of the 1st article such parts as, in the apportionment of representatives and direct taxes among the several States, authorize the addition to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, of three-fifths of all other persons. States which now are entitled to representation, and liable to direct taxation, in proportion not only to their free population, but, to a certain extent, in proportion to their slaves also, will undergo a change in these particulars. They will either lose so much of their representation as may correspond with the number of their slaves, or they will be impelled to turn their slaves into freemen, and thus, apparently, and for the moment, gain a number of representatives, estimated on a broader basis, equal to the difference between three-fifths and the whole number of their slaves.

Certain memorials, with substantially the same objects, from individuals in the town of Walpole, Massachusetts; in Cortland, Niagara, Erie, and Wyoming counties, New York; in Stark, Ashtabula, Trumbull, Seneca, and Muskingum counties, Ohio; and in the ninth Congressional district of Indiana, have also been presented and referred. The memorialists of Ashtabula county, Ohio, consider it a great and oppressive grievance, that one portion of the United States should have a property representation, while the other has not. They, therefore, earnestly petition Congress to adopt measures to have the Constitution so amended that the free citizens alone shall be made the basis of representation. They declare, that although they enthusiastically prize the Union of the States, yet if the Constitution cannot be so amended as above, they would prefer to have the Union, if possible, amicably dissolved.

By the fifth article of the Constitution, it is provided, that "the Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to the Constitution; or on the application of two-thirds of the legislatures of the several States, shall call a convention for proposing amendments," &c. It is sufficiently obvious that neither of the two events has occured which thus

require the agency of the National Legislature. Its interposition would not now be in season. Two-thirds of both Houses have not deemed it necessary that amendments shall be proposed. The legislatures of two-thirds of the several States have not made the preliminary application. A necessity does not exist either for proposing amendments, or for calling a convention for the purpose of proposing them. An exercise of the duty prescribed by the 5th article, just quoted, is not incumbent upon Congress. Yet the high source from which the recommendation comes, single as it is, and altogether unsustained by similar movements on the part of other legislatures, entitles it to respect; and the general interest felt in the whole subject to which it refers, claims for it prompt and attentive consideration. If the conclusion at which the committee has arrived, and this candid exposition of some of its members, should not precisely meet the wishes which have been intimated by the representatives of a great Commonwealth, the committee will derive rich consolation in reflecting that Massachusetts has shared largely in the benefits and blessings of the Constitution which she proposes to change; that her participation in them is hourly increasing; and that the alteration which she recommends could have little direct influence upon her own condition, however, in the estimation of many, it might reflect credit upon her statesmen for the indulgence of a spirit of far-reaching and itinerant philanthropy. This consolation finds as little abatement in anticipation as in retrospect. The past prosperity of that important member of the Union, derived essentially from the Union, has rested upon principles which, in their nature, cannot change. It had for its forerunner a bright career of military glory, and an early combination of patriotic efforts, which contributed largely to achieve the independence of the whole nation. These recollections afford a pledge for the continuance of advantages in connexion with the Union, at least as abundant for the future as they have been glorious and productive in the past. The reflections which have consoled the committee, in not being able to unite in any measures to further the amendment recommended, will, it is hoped, be no strangers to the authors of the resolutions themselves. While unable to concur with them in facilitating their objects, or even in the estimate which they appear to have made of the inherent nature of the change proposed, and its congruity with the purposes of the Constitution respecting amendments, the committee has not withheld from the subject an attention proportioned to its magnitude. The House of Representatives has so far acted upon the application of the single State, as to consider its resolutions entitled to formal reference. The subscribers will do no more than discharge an obvious duty to the body of which the committee itself is merely the agent and organ, in submitting to the House, in the absence of any formal report, their own individual views.

In treating the subject, the undersigned have felt that the committee possessed the power of choosing between distinct and different paths. Were it composed of heated zealots or infuriated partisans, anxious only to achieve a short-lived victory in active and animated discussion, or to retire from it with the bitter fruits of discord as the reward of uncompromising struggles in unbecoming strife, it might select the one. Were it animated by loftier motives, and bound by an ardent love of country, to exercise, if possible, a persuasive influence over excited passions, and to contribute, in public position, to advance the natural tendencies of individual benevolence, to traquillize and assuage, it would pursue the other. Feeling has been inflamed by long continued controversy. Taunts and reproaches have been freely and reciprocally flung. Censure has poured out its stores of contumely upon those who never sought, and who devoutly

believe that they cannot, if they would, abandon the subject of reproach. Enough has been done and suffered from ill-will. In selecting a course of conciliation and forbearance, or rather in obeying the dictates of patriotism, which should control the official guardians of the public weal—members of a body which should reflect, as from a mirror, the wishes and interests of the whole nation—the subscribers devoutly believe that they shall discharge a solemn duty. They are sensible, at the same time, that the discussion will be tedious and tame. Where a theme is replete with topics of exciting interest, and the treatment of it, upon both sides, is habitually ardent and impassioned, cool reflection and sober reason have little claims upon popular sympathy or applause. Passion is always contagious, and, for the most part, eloquent. It readily invests its efforts with the attractions of fancy, and draws into its vortex the feelings, if not the judgments, of men. In its most ordinary influences it is pernicious. When it assumes the direction of distant and complicated interests, and assails the delicate positions of a deeply-rooted sensibility, it threatens to stir up an agitation that may not speedily be repressed. Mistaken sympathies abroad, leagued with partial efforts of domestic hostility, have done much to provoke and wound. If they should now be seconded by keen invective from the heart of the legislative council of the nation, none but fatal consequences can ensue. We are one people. If there are common errors to be amended, let us correct them as we can; but let us not add the folly and the meanness of self-abuse to the malignity of foreign denunciation. By such means the Constitution—the acknowledged work of sages and statesmen, whose memories are embalmed in the hearts of a grateful and admiring country—will be cancelled and torn to pieces; a union, the fruit of blood and toil, glorious in its formation and successful in its results beyond precedent and almost beyond hope—the fairest work of human hands, if cherished and preserved—will be dissolved; a large portion of this fair land may be made the scene of massacre and bloodshed; all the rest will be exposed to be overwhelmed with incongruous associations, forbidden by the laws of nature and of man. And all for what? For the indulgence of little else than an abstract theory on the part of those who, in security, unconsciously stir up the prodigious mischief, at the threatened cost of life and treasure to their brethren, who alone can become the sufferers; a theory, too, the elements of which have lain buried since the formation of the Union, and are now gathered, like the spell of the necromancer, from the decayed bodies and phosphoric lights of charnel-houses, to spread noisome pestilence among the living. Burning thoughts and words may be given out, and may not, by any will or power, be recalled. They will extend with the fatal rapidity of Phrygian fire. If the result should be destruction to the fabric which has been reared by patriotism and consecrated to freedom, foreign nations will rejoice over the downfall which they have confidently predicted of the last great experiment of popular self-government.

It is not intended, here, to discuss the question whether, at the formation of the government under which we live, it would have been wiser in the framers of it, or happier for their posterity, if any of the fundamental provisions had been omitted which the system contains. There is not one of them that was not well considered and cautiously introduced. A veneration for the virtue and wisdom which were combined in the effort, which time has not served to render less brilliant, or the rapid advancement of the succeeding age been able to deprive by comparison of their title to respect, would encourage the hope that the work might remain unimpaired for ages. It is not among the least important of its shining merits, that while it embodies sound principles, and looks, in

practice, to a salutary exercise of them, it contains self-protecting attributes, which render encroachments improbable and even amendments difficult. The patriot will rejoice at the stability of the institutions of his country, even if he should incline to doubt whether each particular ingredient which enters into their composition had originally its proper place among them, or should be unable, at this late day, to fathom the wisdom of all of the compromises of which they are composed. He is willing to sustain and perpetuate them, essentially, as they are. Satisfied with the purity of the motives and the soundness of the judgment to which they owe their existence, he will not readily substitute his own less enlightened views for those which were inspired by the immediate influence of existing and pressing circumstances, and were unobscured by any dark interval of time. Happily for the people, a wide-spread combination of common interests must exist, in harmony with each other and in hostility to the Constitution, before it can be overturned. Its leading principles, and even its minuter parts, are believed to be well secured. Every proposed amendment is presumed to be the result of a desire to escape from impending evils, or of hostility to practical principles which are regarded as unsound. Whether either or both of these inducements may have led to the resolutions of the Legislature of Massachusetts, the committee does not deem material to inquire.

Nor will the undersigned enter upon the trial of another issue which has been tendered, but which they regard as altogether collateral to the purposes of their appointment. It has been urged that a desire for the amendment pervades the population of the State which has passed the resolutions, to an extent which amounts almost to unanimity. Upon a problem, at least of some nicety, and certainly of a nature that does not permit immediate and unreflecting solution, opinions are not always formed at first with accuracy, and they often yield to argument and sober consideration. Equal unanimity might be found elsewhere upon the opposite side of the question. Legislative bodies of one and the same commonwealth fluctuate in their judgments and predilections. Massachusetts herself, speaking through her Legislature, gave different opinions, within no great length of time, as to the constitutionality of the embargo law of 1807. Majorities vary upon subjects of popular excitement as parties change. It may well happen that a legislative opinion of to-day may not be the legislative opinion of to-morrow; and it will not be disrespectful to conclude that such opinions might not be the safest guides as exponents of permanent popular will, even in the State which has communicated the present recommendation.

Suffice it that a step has been taken towards a result that would be binding upon Congress. Whenever it shall happen that the Legislature of one State, which has now made the "application" required, shall be associated in it with the Legislatures of sixteen States more; when, in other words, the case shall be presented which the Constitution contemplates, of "an application of the Legislatures of two-thirds of the several States," "a convention for proposing amendments" must, according to the letter, be called by Congress. Even in that event it may become a question whether Congress might not be bound to pause, if it should find some ingredient in the proposed change which would transcend the purposes of State legislation, the powers of Congress, the scope of the great charter in its amendment clause, and the capacity even of the sovereign people themselves, until they had first burst asunder all the ties of government by which they are now held together. The House of Representatives has, however, created this committee in view of the possibility that it may hereafter be called on to act without any discretion for its guide, and impelled only by the letter and spirit of the Constitution. When that necessity shall arise, it will not affec

the reading of the letter, or the influence of the spirit, that more or less of a given population, that few or many in a particular district, desire the movement to be made. The rules which must then govern Congress, if applicable at all, will be paramount to the wishes of any bodies of men, however numerous, ardent, or unanimous. The whole body of the people, indeed, may deprive Congress itself of its power of action; and, by resolving the system of government into its original elements, may take away the motive and the means of amendment. In the present anticipation of this result, (distant as we trust may be the day of its actual occurrence,) Congress can look only to the established rules which must govern the process of reformation, and obey them without any regard to an estimate of popular majorities. Each Legislature will be considered as a unit; and its expressed will, without regard to the supposed support or objections which may be behind it, must be received as an unquestionable fulfilment and proof of the constitutional requirement.

The power of amendment is not unlimited. It is subject to different qualifications. Some of them are expressed in the instrument itself, and derive their force altogether from that circumstance. Others, needing no enumeration, are, nevertheless, at least as effective as those which are set forth. They are founded in the nature of things, and are irresistible in their influence. It was a wise precaution which, foreseeing changes which time might develop in the condition of the country, and fearing others in the mere dispositions of men, inserted the provision which is made for amendments. An omission of it would have exposed the country to confusion, when they might be demanded by reason, or even called for by caprice. It might have whetted the appetite for change, which is sometimes satisfied by possessing the means, and, being in full enjoyment of the opportunity, seeks the less anxiously for exercise and indulgence. Power is therefore granted to make amendments. The power would have existed without the provision, although not so conveniently, and subject to the want of definite and ascertained form. All these are provided together. The express grant is accompanied by express limitation. Amendments may be made. They are to be effected in a certain prescribed form. But even in the proper form, no amendment could, "in any manner, affect the first and fourth clauses in the ninth section of the first article." That is to say, the migration or importation of such persons as any of the then existing States should think proper to admit, was made absolutely free from prohibition for a certain time; and the imposition of a capitation or other direct tax, unless in proportion to the census or enumeration directed to be taken, was placed at all times beyond the scope of amendment itself. In like manner, no amendment could be made, the effect of which would be to deprive a State, without its consent, of its equal suffrage in the Senate. Without express restriction, alterations under the Constitution to these purposes would have been perfectly regular. The introduction of the restraining clause was absolutely necessary, or the objects would not have been gained.

A power to change or abrogate the Constitution is not intended to be here denied. In their sovereign majesty, we repeat, the people may at any time dissolve the frame of government. No enumeration of powers is necessary, no clauses of restraint are applicable to them. They are supreme. Above all law, they can destroy its every vestige. Unchained by constitutional provisions, they can rearrange the fundamental system in their own way, and in total disregard of the forms which, by their chosen agents, they had previously ordained. These are the axioms of universal law. Peculiar to no one climate, incident to no single race, they have been practised sometimes in the wildest excesses of

revolutionary madness, and sometimes in the calm exercise of bloodless but still revolutionary and arbitrary power. They are not, however, the amendments contemplated by the Constitution of the United States. These have no birthplace but the Constitution; they are parts of one consistent and harmonious plan; and they are limited to the express, and it may be, the implied parental purposes of their original. But they must partake of its essence, and be limited by its scope.

The wise framers of the Constitution inserted thus whatever appeared to be necessary. They seem, however, scrupulously to have avoided superfluous provisions. When inconvenient amendments might possibly be made which, in the nature of things, were practicable and not incongruous, they carefully prohibited them. The power to amend, the manner of exercising it, and the limit to its exercise, are made, in one view, the subject of express provision. Where, however, an inherent and pre-existing principle became, in the mere formation of a scheme of government, incorporated in its very essence, whatever might be its origin, it needed not, and it did not receive the particular notice of the Convention. It would have been futile to attempt an enumeration of all such pre-existing and paramount principles. It is obvious, besides, that an enumeration, though large, would, by a well known rule, diminish the apparent strength of those inadvertently omitted, although of themselves forcible and effective beyond all human laws. The actual qualifications have no such exalted character. They are in *pari materia* with the other clauses of the Constitution. The rule that, by the expression of one thing excludes another, extends no farther. It does not reach the higher principles which have been adverted to. Provisions of the Constitution, as a general rule, are all amendable under the Constitution, unless the amendment be expressly prohibited. Such express prohibition extends to clauses which have been actually inserted, and no farther. Things which derive their existence or force from other sources, which are inherent in all schemes of civil society, independently of human enactment, or in this particular system, independently of positive provision, did not require an enumeration in the Constitution, and they are not found there. In like manner, the limitations which are expressed are directed to powers derived from the mere language of the Constitution, and have no influence either to restrain or confirm things of different origin or independent authority.

It does not require express prohibition to prevent certain efforts, of what may be called amendment, by the projectors of them. These are already the subject of more emphatic prohibitions than any that are contained in the Constitution. Nature and possibility furnish an unquestionable limit, beyond which the most daring wantonness of innovation will scarcely attempt to pass. Were some visionary theorist to propose articles of transcendentalism, inconsistent with the powers of mankind, or totally unsuited to their physical condition and wants, an answer to the proposition would not be sought in the letter of the Constitution. Yet there might be abstract virtue in the theory. Individuals, distinguished for their piety rather than their knowledge of the world, have doubted the propriety of an observance of the laws, because they are not founded exclusively in the word of God.

At the very moment of preparing this report a memorial has been presented to the House of Representatives, which illustrates the argument:

"Mr. Adams presented a petition from inhabitants of Western Pennsylvania and Ohio, praying for an amendment to the Constitution clearly and explicitly acknowledging God as the sovereign of the Universe; for submission to the Lord Jesus Christ; for an acknowledgment of the Scriptures as the paramount law; and for the rescinding all enactments which violate the law of God."—*From the report in the National Intelligencer of proceedings of February* 19, 1844.

The moral code presents another equally insuperable barrier. Were the passions of any portion of the country to become so irregular, or their sense of right and wrong so oblique, as to seek for the identification of murder, robbery, or other offences atrocious in their own nature, and independently of positive law, with the political scheme, the attempt would be repelled. A virtuous sensibility would revolt untaught, at such an approach to national iniquity. It would be inconsistent with the inbred faith of every unperverted mind. Not less at variance with a well regulated and informed political faith would be the attempt to incorporate heresies of a different character. The whole frame of government is republican. An alliance with principles of an opposite tendency is forbidden, not by the words of the Constitution, (although they guaranty to each State the form,) but by its innate and essential character. If, upon the broad basis of equal rights, a system should be reared partaking of despotic tendencies; if one single incident or ingredient of royalty should successfully seek an incongruous place among the rugged asperities of a less refined and high-toned government, the framework would fall to pieces. A result equally disastrous might be produced by other less glaring inconsistencies. Propositions might not be made of unnatural or unholy alliances, which would expose to a rude shock human nature, sound morality, and stern republicanism. It is altogether improbable that such propositions will ever seriously be contemplated. They are suggested by way of illustration only. But an assault may possibly be made upon equally well-settled and operative, although they may be arbitrary and conventional, regulations. Justice and good faith would be thus as clearly violated, if these regulations, without formal treaty or literal record, were, by understanding and fair implication, component parts of a solemn compact, and incorporated into the scheme of government. Every patriot would rally to the vindication of them, in the hope that he might defeat those who wilfully assailed, and convince and convert those who inadvertently opposed them.

The subscribers beg leave to submit certain propositions as the basis of the conclusions at which they have arrived. These propositions are presented the rather because they are not new or strange to the country, but, in substance, as familiar almost as household words—postulates in its political science and history.

When the Constitution was about to be formed, jarring and seemingly inconsistent sentiments were found among the delegates of the people of the several States. These differences were in a great degree local and sectional in their character. It became necessary before "a more perfect union" could be formed, either to reconcile these opposing sentiments in one harmonious system, or by forbearance and conciliation no less patriotic, practically to exclude them.

Among the subjects of difference, none presented greater difficulty or was filled with more delicacy, than the settled and opposite opinion prevalent in the States, and among the people of them, where slavery existed, and was of probable continuance for an indefinite and prolonged period; and in the States, and among the people of them, where its existence in a few scattered fractions was scarcely perceptible, and where its final extinction had been definitely provided for. This delicate and interesting difference was made the subject of compromise. The task was a difficult one, but it was fully accomplished.

It becomes necessary now to inquire whether the arrangement, thus designedly and deliberately entered into, embraced, as to the subject of present inquiry, principles which were settled by an already fixed state of things; whether those fundamental maxims were mutually understood, and fully acquiesced in; whether the arrangement amounted to a contract; and whether the contract was permanent in its character.

In every arrangement made between individuals, or nations, or parts of nations, something must be understood to pre-exist and impliedly to enter into it. It is not necessary that it should be expressed. If a new government is to be formed by people promiscuously thrown together, without common plan or predilection even in outline, there are elements which cannot escape their consideration, or fail to control their civil polity. Climate, soil, face of the country, and other primary ingredients must, it is said, influence the laws. They serve to constitute the spirit of laws, and will not, without fatal results, be disregarded. The people of the United States had many common bonds of connexion before they formed the present Union. Before even the Declaration of Independence, they were cordially united as a (colonial) people. When the news of the Boston port-bill reached the colonies, one thrill of fraternal indignation agitated the people of them all. They were united in soul and sentiment long before they pledged themselves, their lives, fortunes, and honor, in solemn written assurance to each other. When they came together to render their already subsisting union *more* perfect, and for that, and other purposes, did ordain and establish a Constitution, they already subsisted as a nation. An authentic history had long before been told of their settlements and infant systems. Already had they successfully asserted for themselves the rights and powers of an independent people. Widely different was their condition from that of fugitives from a distant land, bringing with them nothing but strong hands and willing hearts, seeking protection from the favor of an established community, and ready to be incorporated into it, and to receive as their own its hue and character. Still more widely different was it from that of wandering and unsettled tribes, suddenly met together without plan or project, or fixed principles of government, or habits of social and domestic life. They had their previous sentiments, principles, and necessities, incorporated, as it were, into their existence. They only united the more closely as the people of States already closely knit together, whose condition in many respects was to remain, except by remote and reflected influence, unaffected by the union; in whose internal regulations they might be essentially different, and respectively supreme; and whose various institutions should continue to be altogether independent of Federal control A whole class of domestic relations was left untouched; and unless already regulated from a different source, these would have been absolutely unprovided for. State power and policy remained, for the most part, in distinct organization. Restrictions were, indeed, imposed upon them, but they looked rather to such tendencies as might, if unchecked, interfere with the exercise of functions conceded by express grant or obvious inference to the nation,—its self-support or foreign intercourse. It may be asked, what would have been thought of an attempt in the Federal Constitution to interfere with the somewhat peculiar observance of the Christian Sabbath, which in some parts of the couutry extends from sunset to sunset, and to substitute the more usual periods of its commencement and termination at midnight? Yet this is regulated by local usage, and sustained by local law. Not less incongruous would have been any attempt to break down slavery in the South, either by positive prohibition, or the omission to provide counteracting and reciprocal equivalents. While these direct or indirect inhibitions are now anxiously sought, they were then scrupulously avoided, or at least designedly omitted. Yet the denial of power to the States abounds: Treaties, alliances, or confederations cannot be formed by them; warlike commissions for maritime enterprises cannot be granted by them; duties on tonnage; keeping troops in time of peace; agreements or compacts with another State or a foreign power; engaging in war unless actually invaded, or in such imminent

danger as would not admit of delay, and other like exercises of power, are peremptorily denied to them.

During the proceedings of the Convention nothing is believed to have occurred which could shake the settled policy which has been adverted to. Much transpired not only to confirm, but to give demonstration to it, and to diffuse a faith in its existence. Mr. Butler and General Pinckney insisted that blacks be included in the table of representation *equally* with the whites, and for that purpose moved that the words "three-fifths" be struck out. Delaware, South Carolina and Georgia approved, while Massachusetts, Connecticut, New Jersey, and Pennsylvania, together with Maryland, Virginia, and North Carolina, opposed the amendment. Partly with a view to their own policy, and partly from apprehension of what would now be regarded as a worse result, the Northern States voted for sustaining the "three-fifths clause. Mr. Davie, of North Carolina, declared that he saw it was meant by some gentlemen to deprive the Southern States of any share of representation for their blacks. He was sure that North Carolina would never confederate on any terms that did not rate them at least as three-fifths. If the Eastern States meant, therefore, to exclude them, the business was at an end." A vote for rating the blacks with the whites was taken a second time, and supported only by South Carolina and Georgia. Upon the motion finally prevailing to proportion representation to direct taxation, and both to the white and three-fifths of the black inhabitants, Connecticut, Pennsylvania, Maryland, Virginia, North Carolina, and Georgia, were in favor of the clause; New Jersey and Delaware (probably from different reasons) were opposed to it; and Massachusetts and South Carolina (also from different reasons, probably) were divided.

The votes given, and the remarks made during the progress of the Convention, show that, while the subject was not at any seasonable moment overlooked or forgotten, it was so treated and so disposed of as to leave no cause to doubt the nature of the impression which it made, and the effect which that impression was calculated to produce on posterity. Mr. Rutledge, of South Carolina, said the true question was, whether the Southern States should or should not be parties to the Union. Mr. Sherman, of Connecticut, observed that the abolition of slavery seemed to be going on in the United States, and that the good sense of the *several States* would probably by degrees complete it. He also remarked that it was the freemen of the Southern States who were in fact to be represented according to the taxes to be paid by them, and the negroes were only included in the estimate of taxes. Mr. Gerry, of Massachusetts, thought they had nothing to do with the conduct of the States, as to slaves, but ought to be careful not to give any sanction to it. Mr. Ellsworth, of Connecticut, argued that the morality and wisdom of slavery were considerations belonging to the States themselves. Mr. Wilson, of Pennsylvania, though opposed to the three-fifths principle, thought the necessity of compromise required it. New Jersey was the only State, it is believed, that voted to insert the word "free" in the estimate of inhabitants. Slavery was denounced in unmeasured terms. Mr. Gouverneur Morris, of New York, for example, said that he would never concur in upholding domestic slavery; that it was a nefarious institution, and the curse of heaven on the States where it prevailed. While thus asserted to be unquestionably an evil, it was conceded that slavery was not amenable to Federal jurisdiction. Its history in the country was well known; its origin then more recent, and the course pursued by the parent nation in their legislature and through their people, were fresh in the recollection and the thoughts of every statesman. A member of the British House of Commons writes to his friend,

on the 25th of February, 1750, "We have been sitting this fortnight on the African company. *We*, the British Senate, that temple of liberty and bulwark of Protestant christianity, have this fortnight been pondering methods to make more effectual that horrid traffic of selling negroes. It has appeared to us that six-and-forty thousand of these wretches are sold every year to our plantations alone! It chills one's blood. I would not have it to say that I voted in it for the continent of America." It had been planted and carefully cultivated in colonial times, without responsibility on the part of the dependent colonists; and it had taken root so deeply then, that long lapse of time, as well as change of circumstances, must ensue before it could be eradicated. No thought seems to have crossed the minds of the framers of the Constitution, that in thus reluctantly acquiescing in what was found among them, or near them, without Federal participation or support, in recognizing merely a substantial existence, the verity of which they could not doubt, in abstaining from all intercourse with what was beyond their reach, in preferring a union, with the hope of a gradual and future extinction of an evil, to separation, with an augmented probability of its continuance and confirmation,—they were trampling on any of their moral, social, or political duties. As little did they—some of them the immediate parties to the Declaration of Independence, and all of them associated with those who were its authors—suppose that they were violating the first principles of civil liberty, as set forth in that instrument. It is a recent discovery that the patriots who in placing their names at its foot, when the patriotism which appeared, and boldly too, in the subscription, assumed the hue and incurred the risk of rank rebellion, were regardless of the truths which it inculcates. Equal rights do not necessarily confer equal opportunities and capacities for enjoyment. Freedom and equality, which are the birthright of men, are held subject to the exigencies of society. Moral and political truths are not contradicted or exposed, even when they fail to be technically verified.

After the Constitution was ratified, and Congress met upon the principles and agreeably to the arrangements which had been provided, new evidence was afforded of the abstinence which became the General Government in relation to domestic slavery. A member from Pennsylvania spoke of the claim to slave property as "vested at the time of the Constitution, and guarantied thereby." Statesmen and orators abroad applauded it as it stood; and some of the fastest friends of individual liberty and equal rights deemed the great problem of their security solved by the example of constitutional America. "I aver," said Mr. Erskine, in his speech for Paine, "that there is at this moment as sacred a regard to property, as *inviolable a security to all the rights of individuals*, lower taxes, fewer grievances, less to deplore, and more to admire in the Constitution of America, than that of any country under heaven."

On the 11th February, 1790, an address was presented to Congress, from "the people called Quakers, in their annual assembly convened." But it was confined to the subject of the African slave-trade, and merely suggested the inquiry, whether, notwithstanding seeming impediments, it were not within legislative power to exercise justice and mercy, which, if adhered to, they could not doubt must produce the abolition of the *trade*.

On the following day a memorial was presented of the Pennsylvania Society for promoting the Abolition of Slavery. This document, subscribed by Benjamin Franklin, as the president of the society, was much broader than the other memorial above stated. The society from which it emanated was formed "for promoting the abolition of slavery." The memorialists state, that being particularly engaged in attending to the distresses arising from slavery, they believe it their

indispensable duty to present the subject to the notice of Congress. They have observed, (they proceed to say,) with real satisfaction, that many salutary and important powers are vested in Congress for "promoting the welfare and securing the blessings of liberty to the people of the United States;" and as they conceive that these blessings ought rightfully to be administered, without distinction of color, to all descriptions of people, so they indulge themselves in the pleasing expectation that nothing *which can be done* for the relief of the unhappy objects of their care, will be omitted or delayed. They conceive themselves bound to use *all justifiable endeavors* to loosen the bands of slavery, and promote a general enjoyment of the blessings of freedom; they ask Congress to *countenance* the restoration of liberty to those unhappy men who, alone, in this land of freedom, are degraded into perpetual bondage; that Congress will *devise means* for removing this inconsistency from the character of the American people; that it will promote mercy and justice towards this distressed race; and that it will step *to the very verge* of the power vested in it for discouraging every species of traffic in the persons of our fellow-men.

This paper partakes of the character of the determinations of the Convention, and of the general scope of the remarks made in that august body. It nowhere asserts, for the National Legislature, a control over the internal regulations of the States. With the characteristic caution of the distinguished person whose name is annexed to it, it avoids assuming any position that might be regarded as untenable, or in any respect inconsistent with the course adopted by the Convention. It leaves the question of power, and the effect of the measures adopted, precisely where it found them. It does not vary, by the influence of a respected name, the predominating influence of an historic body, and of a host of concurring circumstances preceding and accompanying its career. It is remarkable that little or no discussion took place upon Dr. Franklin's memorial. That which immediately went before it received attention in debate, possibly because it presented tangible points of discussion. The other was more abstract. Both were the subject of report and amended resolutions, and the final result confirmed the course which had been pursued by the Convention. If there was really any difference between that course and the principles contained in the memorial of the abolition society, it gave new effect to the former, and prevented all inferences which might be hostile to it from being drawn from the latter, then or at any subsequent time. The result of prolonged and frequent discussion was, an order that the resolutions reported by a committee, and also those passed in committee of the Whole House, being "amendments to said report," should "be inserted on the journal." And the memorial itself is stated to have been "rejected."

The particular resolution of the series which referred to this subject, which stood as the final evidence of the views of Congress, and put at rest for a long series of years all attempts to change them, is in these words: "That Congress have no authority to interfere in the emancipation of slaves, or in the treatment of them within any of the States; it remaining with the several States alone to provide any regulations therein, which humanity and true policy may require."

When these expositions of the powers and principles of the Federal Union are well understood and cautiously considered, they can scarcely fail to carry conviction to the mind. Some of them were immediately cotemporary, and all of them of a date little different from that of the labors of the Convention. The embarrassment arising from an interference with principles once considered settled, appears to have been felt by the parties to the resolutions of the Legislature of Massachusetts. In the corresponding report they state, that, "so great

is the connexion of slavery with the people of Massachusetts, through the obligations imposed upon them by the Constitution of the United States, that a great difficulty exists at the threshold, to know how to propose amendments which shall have the effect desired, without completely destroying the instrument itself, and making necessary the framing a new one."

The same issue that was presented fifty-seven years ago, and was fifty-seven years ago decided, is tendered anew. It is union, with slavery in the Southern States left to the Southern States themselves; or, distant control and influence, with a dissolution of the Union. One of the memorials which has been referred distinctly presents the alternative. It does so with a preference of dissolution, and an ill-omened hint that the breaking up may be "amicable," if it can. The legislative resolutions, although in terms not so explicit, are substantially as significant. It has been shown that this fearful alternative was admitted to be the turning point in the history of the Convention. Its determination left slavery with the States, and recognised its existence there. The Convention terminated its labors, and the members mingled again with the mass of their fellow-citizens. State conventions were held. This interesting topic was carefully explained; but nowhere in terms stronger or more explicit than in Massachusetts. When the third paragraph of the second section had been read, Mr. King rose to explain it. "There has (says he) been much misconception of this section. It is a principle of this Constitution that representation and taxation should go hand in hand. This paragraph states that the number of free persons shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons. These persons are the slaves. By this rule is representation and taxation to be apportioned. *And it was adopted, because it was the language of all America.*"

"Mr. Widgery asked if a boy of six years of age was to be considered as a free person."

"Mr. King, in answer, said all persons born free were to be considered as freemen; and, to make the idea of *taxation by numbers* more intelligible, said that five negro children of South Carolina are to pay as much tax as the three Governors of New Hampshire, Massachusetts, and Connecticut."

"Mr. Gorham thought the proposed section *much in favor of Massachusetts;* and if it operated against any State, it was Pennsylvania, because they have more *white* persons bound than any other."

"Judge Dana concluded: From a survey of every part of the Constitution, I think it the best that the wisdom of men could suggest."

Afterwards "Messrs. King, Gore, Parsons, and Jones, of Boston, spoke of the advantages to the *Northern States* the rule of apportionment in the third paragraph (still under debate) gave to them; as also the Hon. Judge Dana," &c.

The last-named person concluded his remarks by observing, "that the proposed Constitution was the best that could be framed; that, if adopted, we shall be a great and happy nation; if rejected, a weak and despised one; we shall fall as the nations of ancient times have fallen; that this was his firm belief; and (said he) I would rather be annihilated than give my voice for, or sign my name to, a Constitution which, in the least, should betray the liberties and interests of my country."

It is quite possible that, at the period of these debates, a freer recurrence was anticipated to taxation than the event has realized. Nothing, surely, in an unexpected development can absolve the stipulations of plighted faith. The North had the advantage and the security, derived from a reliance upon a heavier taxa-

tion of the South than its numbers of free white persons would justify. It rejoiced in that advantage and security, and reaped the full benefit of them. At a former period, one State had been attacked singly, and had been compelled to make the first defence. Now, the danger of one would be the danger of all, and defence and protection would go along with it. Nova Scotia and New Brunswick, filled, as was believed and declared, "with tories and refugees, stood ready to attack and devour those States *one by one*." A power to draw forth the wealth and strength of the whole for the defence of a part was now guarantied, and danger was defied. The North has had further and lasting advantages in the encouragement of its fisheries, the growth of its commerce, and the prodigious prosperity of its manufacturing establishments.

Certain amendments were proposed by the State of Massachusetts at the very moment of ratification. These were nine in number. One of them looked to another part of the very clause which is now complained of, and proposed that no direct taxes should be laid but when the moneys arising from imposts and excises should be insufficient for the public exigencies; but it found no fault with the slave representation. On the contrary, it confirmed "the census fixed in the Constitution."

History has not failed to regard all these circumstances as unerring indications of a settled policy. Terms may lose their once established meaning, as language, from external and internal causes, fluctuates with the lapse of ages. Even actions become distorted to the distant eye when viewed through the refracting density of "calumniating time." Passion may obscure the intervening medium; ingenuity may create doubts and cavils as to the character and existence of almost palpable events; fancy may discolor, and prejudice defame them; but their essence must remain unchanged. Reason at last will triumph over subtlety, and, nothwithstanding the devices of cunning, and the assaults of rage, truth, in its native majesty, will vindicate its proper cause, and the counsels of undying wisdom will prevail.

Against demonstrations apparently so clear, it is scarcely to be wondered at that every engine which partisan zeal can suggest should be brought to bear. In the very front of battle is arrayed the white-robed figure of the Prince of Peace. Religious consolation and hope, once addressed to the whole race of man, and applied to his redemption from sin and the captivity of the grave, have been wrested from their sublime purpose and their literal phrase. With a little misconception and much zeal, a fervent fancy and an abuse of terms, anything, however extravagant, may be deduced from the simple words of truth and soberness. An enthusiastic sect of the day, with entire sincerity, draws the conclusion that the years of the world are numbered, and its immediate doom denounced, by the fact that "in six days the Lord made heaven and earth." If the doom of slavery be found in Scripture, it must be in terms no less mysterious and remote. The subscribers are conscious that they are not polemics, while they trust that they are not profane. They do not desire or design to call in the aid of the Gospel to support the cause of slavery; but they can discover nothing in its divine instructions to forbid it. The precepts of religion are not wont to be equivocal, whatever may be the depth of the sublime truths upon which it stands. The earliest law, given, not to a particular race, but to the whole family of mankind, fresh to-day as when it was uttered in thunder from the cloud-capped summit of the mountain, is precise, and clearly prohibitory. Its repetition in the Gospel, at the distance of fifteen hundred years, finds it free from doubt. Sermons and parables uttered "as man never spoke," all mark out the plain path of moral duty, and prescribe or forbid, beyond the mistake of

ignorance or the misconception of any but the infatuated and the blind. The divine Author of these tenets, the founder of the Christian faith, feared no human interdict in the dissemination of his doctrines. He came to die—to die upon the cross. In doing justice to the rulers of the land, he avoided no penalty and sought no impunity. Profanity alone can impute to his exalted nature the base motive of human fear. An absence of necessary vice in slavery may be traced in the laws of the Israelites, which, though intended merely for that people, were derived immediately from the Creator of the universe, and therefore imbued with no sin. In them there was not only no plausible prohibition, but positive command. "Both thy bondmen and thy bondmaids which thou shalt have, shall be of the heathen that are round about you; of them shall ye buy bondmen and bondmaids. Moreover, of the children of the stranger that do sojourn among you, of them shall ye buy, and of their families that are with you which they begat in your land; and they shall be your possession. *And ye shall take them as an inheritance* for your children after you to inherit them for a possession; *they shall be your bondmen for ever.*"—*Leviticus, chap.* xxv, *verses* 44, 45 and 46. The argument derived from the supposed will of God proves too much if it possess any virtue at all. Prompt obedience should ensue, be the consequences as disastrous as they may. One hour's perseverance in guilt would be to tamper with conscience, and to compromise things that hold no alliance with iniquity.

If, indeed, in the divine law or the divine gospel, a word of prohibition can be found, the argument will be at an end. If the gospel allowed, and the law, under any circumstances, once commanded it, slavery cannot be regarded as abhorrent to nature and to nature's God. Its demerits may cause those who do not need it to rejoice in their exemption from an evil. But they cannot justly charge with impiety, or renounce fraternal association with, communities or individuals among whom it continues to grow, who preserve it from habit or necessity. They alone are exposed to the mischief and share the burden. With them, alone, must remain the responsibility of preservation and the choice and the hazard and the embarrassments of relief.

Were a crusade to be aroused and conducted among the slaveholders of the United States, it would not be the first, although it might be the bloodiest, of persecutions undertaken beneath the banner of the cross. Religion perverted, and reason abused, have been the watchwords of many a cruel and exterminating civil war. Six thousand persons were burned alive within the four earliest years of the Inquisition, which was first established by Ferdinand and Isabella. Sixty thousand persons were murdered in France at the massacre of St. Bartholomews. Torrents of blood flowed on the altars of Mexico at the nod of the inexorable Cortez. In later times, when reason was deified and the barriers of reciprocal right broken down, more than a million of victims were sacrificed in cold blood during the fury of the French revolution. Should these fatal occurrences ever be renewed, we devoutly pray that no portion of our country may be selected as their theatre.

It is not easy to understand why the particular amendment should be urged with so much vehemence, if only its own legitimate consequences are contemplated.

The slaveholding States, according to the tables in Professor Tucker's recently published work, "Progress of the United States in Population and Wealth, in fifty years," (pages 119, 120,) contain:

Inhabitants, - - - - - -	7,334,431
The non-slaveholding States, - - - -	9,728,922

But of the entire population in the slaveholding States, there are, (page 118,)

Whites, - - - - - - -	4,631,998
Free colored, - - - - - -	211,889
Slaves, - - - - - - -	2,486,226
(Varying somewhat from the former,) - - -	7,330,113

It is supposed that undue influence is asserted and exercised by the slaveholding States. A comparison between population and office would rather show the result as connected with particular States, than with the description of them, as arising from their institutions or geographical position. Virginia has furnished Presidents for eight terms, out of the ten occupied by the whole South. The same Commonwealth, together with Maryland and the District of Columbia, exhibits a disproportion in the possession of subordinate offices, as striking towards her neighbors as towards the more distant members of the Union. Other causes might be found for the apparent patronage, besides the influence of slavery. It might be traced in the more general diffusion of ambition and the love of public life; a sentiment which pervades all classes in one section of the country, and in another is so rare that it is often with difficulty that willing incumbents for the less lucrative places can be found. If the influence of the slaveholding States be a preponderating one, it is derived not from numerical strength, but the force of union. The coalescence of eighty-eight persons in the House of Representatives gives them their power. Of the slave population (2,486,226) three-fifths are, 1,491,735. According to the present apportionment of one representative for every seventy thousand six hundred and eighty persons, this would give twenty-one representatives as the additional quota of the slaveholding States, beyond their free representation. Instead of eighty-eight members of the popular branch of the Legislature, they would have sixty-seven, if the amendment desired by the Legislature of Massachusetts should prevail. Coalescence among the sixty-seven representatives would be as ardent as it is now among the eighty-eight; perhaps somewhat more so. The force in the Senate would remain unchanged. The character of the representation and its disposition to coalesce, the ardor and numbers of the people, their disposition for encroachment, ambition, love of office, political habits, education and skill—everything, in a word, in all places save one, and everything even there except mere numerical force to no great extent, would be unaffected, or at least undiminished. Can it be reasonably supposed that a preponderating influence, so formidable as to justify for its attempted cure alteration of the great charter of freedom and even revolution itself, would be materially abated by taking from its representative strength merely one-eleventh of the whole numbers that compose the House?

Nor is it much more easy to perceive the relief that any particular section of the country would experience by the amendment proposed. If slavery and the amended Constitution could subsist together, fugitives might be as troublesome without as with the increased ratio of representation founded upon three-fifths of the slaves. New Latimers would be at hand to excite sympathy, and fresh impulses of benevolence would agitate the heart and open the hand for their relief. These evils, if evils they are, must be expected as long as access can be had to a soil which does not receive the imprint of slavery. They are experienced for better, or worse, across the northern frontier and the lakes, where neither the three-fifths rule of apportionment, nor the constitutional provision for delivering to the claimant persons escaping from service or labor, nor the mutual

privileges and immunities of citizenship among the States, nor the Union itself, are felt or known.

It cannot be denied that the stake is altogether different in different parts of the United States. In one, an anxious sensibility may lament the existence of a theoretic ill, which leaves its possessor in secure possession of all the enjoyments of life. In the other, hourly exposure and liability may be aggravated by mistaken zeal into positive and practical calamity. One is at the best an exercise of uncalled-for sympathy. The other is the constrained and reluctant perception of interference, without interest, necessity or right. The North chooses to discuss the peculiar practices and privileges of the South. The South asks nothing but exemption from councils, which it deems intrusive and unkind. If the doctrine exists that slavery is a blessing, it has been taught by continued and unwelcome interference. It never was proclaimed during the patriotic efforts of the Convention, nor during the scarcely less memorable struggle which terminated in the admission of Missouri as a State, and in the marking of a geographical line beyond the limits of which the system should not extend. If the views which have been taken of the principles of the Constitution be sound, slavery must be left to the exclusive direction of those who are in the midst of it, and who alone can judge of the policy of its preservation, or the treatment which it should receive. Resting upon the Constitution, and its delicate reserve, they assert, not without reason, that they cannot rightly be drawn into the discussion of that which they have the legitimate and once admitted authority to control. If the premises be just, the conclusion is true. To insist upon the discussion is an invasion of the right itself. To admit it would be to abandon the cause.

Is it clear that this perseverance of one State in an attempt to usurp the inherent prerogatives of another, would stop with the question which happens now to excite the peculiar attention of the world? Gradual abolition of to-day may be converted by the fiat of distant and irresponsible influences into immediate abolition to-morrow. If the right to interfere exist at all, it is co-extensive with the supposed evil. If there be a *right* to advise, there is a *right* to command. Sensibilities which have been aroused from the slumber of half a century, and cannot brook for a moment what they consider the continued violation of the law of nature and of nature's God, may not choose that their stern requisitions be delayed, and the land may be made a scene of desolation. Slavery and the South are now the objects of reform. Other States, and scarcely less extensive oppression within their borders, may next attract attention. In Pennsylvania, for example, the whole black population is excluded by constitutional provision from the polls; it has no title to citizenship by judicial determination. In different non-slaveholding States, (Indiana, Illinois, and Ohio, for example,) it cannot stand up and testify against a white person. The same self-evident truths may be appealed to, to give *equal* privileges there, and to make men *free* to all the enjoyments of the right of suffrage and the power of giving testimony.

Among the non-slaveholding States, these privileges have been restrained. They are less liberally granted now than formerly. Where constitutions have been altered in the South, there has appeared no such tendency. Virginia has abrogated her freehold requisite for suffrage, and substituted an almost universal access to the polls, dependent upon being a householder and the head of a family and the payment of a tax which may be nearly nominal. Louisiana is in progress towards a similar result. Maryland is without the shadow of restriction.

In reaching the conclusion that the clauses concerning slavery can produce little practical inconvenience to the non-slaveholding States, the committee vindicates the theory of the Constitution. It found the institution in possession of the States, and it left it there. In the apportionment of representatives and direct taxes among the States, however, "according to their respective numbers," it was scarcely possible that the mass of slave population could be overlooked. Free persons, including those bound to service for a term of years, were to be embraced of course. Indians not taxed were to be excluded. Between a fifth and a sixth part of the whole remained. In relative proportion *they* stood, on the 1st of August, 1790, to which date the first census was referred, $17\frac{76}{100}$ per cent.; free colored $1\frac{51}{100}$ per cent.; and whites $80\frac{73}{100}$ per cent.

In actual numbers of the whole population, the whites were,	3,172,464
The free colored, - - - - - -	59,466
The slaves, - - - - - -	697,897
	3,929,827

This large mass amounted to nearly seven hundred thousand, out of a population consisting besides of little more than three millions two hundred thousand. In its proportion to the whole population among the slaveholding States, it was still more formidable.

The whites were, - - - - -	1,271,692
The free colored, - - - - -	32,635
The slaves, - - - - - -	657,047
Total, -	1,961,374

In that almost equal section of the Union the number of slaves was a little more than one-third of the population, and that of the whites was a little less than two-thirds.

Whether they were regarded as persons or property, the existence of them might greatly influence the arrangement that was to be made. In the North, they were considered as persons. In the South, partly as persons and partly as property. They could not be confounded with the other classes specified—free persons, persons bound to service for a term of years, and Indians not taxed; and an easy and proper designation was used, "three-fifths of *all other* persons." The term which was everywhere admitted to belong to them was adopted, and the liability to taxation and the right to representation were fixed accordingly. In the preface to the "Defence of the Constitutions of the Government of the United States of America," a work written and published in London shortly before the meeting of the convention, 1787, Mr. John Adams speaks without objection of property as the basis of representation: "The end to be aimed at," says he, p. iii, "in the formation of a representative assembly, seems to be the sense of the people, the public voice: the perfection of the portrait consists in its likeness. Numbers, or property, or both, should be the rule; and the proportion of electors and members, an affair of calculation." The subject is fully discussed in relation to the Constitution, in the 54th number of the Federalist. The positions assumed for the Southern States are, that slaves partake of the qualities both of persons and property, being considered by their laws in some respects as the one, and in some respects as the other. The Federal Constitution, with great propriety, views them in the mixed character:

"Would the Convention have been impartial or consistent," the writer proceeds, "if they had rejected the slaves from the list of inhabitants when the shares of representation were to be calculated, and inserted them on the lists when the tariff of contributions was to be adjusted? Could it be reasonably expected that the Southern States would concur in a system which considered their slaves in some degree as men, when burdens were to be imposed, but refused to consider them in the same light when advantages were to be conferred? Might not some surprise also be expressed, that those who reproach the Southern States with the barbarous policy of considering as property a part of their human brethren, should themselves contend that the government, to which all the States are to be parties, ought to consider this unfortunate race of men more completely in the unnatural light of property than the very laws of which they complain?" It is well worthy of recollection that this number of the Federalist was from the pen of Mr Jay, one of the least inclined of the statesmen of the day to favor the system of slavery, and whose anxious desires were expressed in his after life for its entire extinction. A distinguished living Commentator pursues the same course of reasoning. "Although property," says Judge Story, (Com. on the Con. vol. 2, p. 106,) "may not be directly aimed at, as a basis in the representation provided for by the Constitution, it cannot, on the other hand, be deemed to be totally excluded." He adds, in page 111: "The truth is, that the arrangement adopted by the Constitution was a matter of compromise and concession, confessedly unequal in its operation, but a necessary sacrifice to that spirit of conciliation which was indispensable to the union of States having a great diversity of interests and physical condition and political institutions. It was agreed, that slaves should be represented under the mild appellation of 'other persons;' not as free persons, but only in the proportion of three-fifths."

According to one learned commentator, the Constitution is a federal and social compact, entered into by the several States, and ratified by the people thereof respectively, whereby the several States, and the people thereof respectively, have bound themselves to each other and to the Federal Government of the United States, and by which the Federal Government is bound to the several States, and to every citizen of the United States. Another learned commentator considers it not a compact or contract, agreed to by two or more parties, to be construed by each for itself, and here to stop for the want of a common arbiter to revise the construction of each party or State; "but that it is, as the people have named and called it, truly a Constitution," ordained and established by the people. The earliest writers on the subject declared that it "was the result neither from the decision of a majority of the people of the Union, nor from that of a majority of the States. It resulted from the unanimous assent of the several States that are parties to it, differing no otherwise from their ordinary assent than its being expressed, not by the legislative authority, but by the people themselves." Judges and jurists have differed in the use of terms applicable to the instrument, and in the formal definition of it; but all agree that it is a fundamental and a supreme law. It contains whatever is necessary as a foundation for the exercise, and a guide to the construction of federal legislative authority, in the enumeration of specific powers and the expansion of them, so far as may be "necessary and proper for carrying into execution" those which are enumerated, and all others "vested by the Constitution in the Government of the United States, or in any department or officer thereof." It limits the restrictions upon the States, or receives the concessions of the people of them, specifically and in measured terms. It leaves to the people of them, unre-

stricted, their domestic privileges and internal laws; and it carefully omits to control them in their established policy, their settled principles, and their organic law. One of the restraining regulations over the General Government, as to the peculiar privileges of the States, composes the tenth article of the now subsisting amendments; and it was the first of the amendments proposed by the State of Massachusetts, "that it be explicitly declared, that all powers not expressly delegated by the aforesaid Constitution, are reserved to the several States, to be by them exercised."

The Convention of Massachusetts terminated its patriotic labors with a deliberate annuneiation to the world. Were there no other evidence of the fervent sense of religion which inspired the minds of those who framed and those who ratified the Constitution; of a matured conviction that every part of it was in conformity with the will of God; of the absence of all cunning devices and deceptive terms; of all undue haste; of all surprise and fraud; and of the solemnity of the arrangement, and its binding force upon the conscience and the heart,—it would be treasured up in this manifesto. It was uttered with the solemn truths of the Declaration of Independence full in view. If these truths contained a pledge of conduct for the American people, the pledge was, on this occasion, not forgotten. The Convention declares that it has impartially discussed and fully considered the Constitution for the United States of America, reported to Congress; and acknowledges, with grateful hearts, the goodness of the Supreme Ruler of the universe, in affording the people of the United States, in the course of his providence, an opportunity, deliberately and peaceably, *without fraud or surprise*, of entering into an *explicit and solemn compact* with each other. May it not be said that the pledge was perfeetly understood and faithfully redeemed? What would have availed the brief independence of a nation that must soon have become a prey to foreign power or internal dissensions, that had before no strength for war, no resources in peace—that now created stability for its independence, and secured the blessings of liberty which the patriotic Declaration did but hope for, and gave at once an impulse to prosperity, and an extent to power, which assured her an exalted rank among the nations of the earth. If the self-evident truths are construed as extending to the personal condition of every individual of the family of mankind, all history denies the assertion, and disproves the supposed position of the wise men who uttered them. Equality could not be asserted anywhere with regard to bodily or mental powers, or the opportunities or means of exercising them. The tenderest of domestic ties—that which subsists between those whom God hath joined together, and the universal condition of the female sex in civilized as well as savage life—manifest personal inequality and actual subjection. It does not need confirmation from the degrading practice which the soil of Britain has exhibited for centuries, of the slave market, where the husband sells his wife with a halter round her neck. Freedom could not be predicated of all men, while bondmen of the Levitical law, helots of Sparta, slaves of Rome, vassals of the feudal system in former days, and the serfs of Northern and Eastern Europe; the whole population of the Mogul Empire, Persia, and Turkey; the negroes born in the West India Islands, belonging to whatever European nation, and the degraded castes of Eastern India—were living contradictions. Political liberty and equality were maintained at every hazard. An acknowledgment was pronounced in the treaty of November 30, 1782, by the former sovereign, that the United States were free, sovereign, and independent; and nothing has occurred to shake their title to these high possessions. A learned and estimable writer, somewhat fond of para-

dox, carries the doctrine still farther than those who contrast individual subjection to restraint, with axioms of political philosophy. He denies not only that "*all* men are born free," but that any one enjoys that privilege. So far is it, says he, from being true, "that the first infringement of this liberty is, *being born at all.*" MAN he describes as being placed perpetually "in a state of the severest discipline; first, under a nurse, and then a schoolmaster, (both equal tyrants in their several departments,) by whom he is confined without law, condemned without a jury, and whipped without mercy. He is then obliged to commence an involuntary subject of some civil government, to whose authority he must submit, however ingeniously he may dispute her right, or be justly hanged for disobedience to the laws. And this (he concludes) is the sum total of human liberty."

Before and after the Declaration of Independence was communicated to the world, practices were universally prevalent that are at variance with the interpretation now given of its terms. Advertisements are to be found in the Massachusetts gazettes, offering human beings for sale, and rewards for the recovery of those who had escaped from their masters. Several of these advertisements are inserted in a note at the end of this report. (See note A, p. 24.) One of them occupies a part of the same sheet which publishes the Declaration of Independence. (See note B, p. 24.) A series of manifestoes, emanating from representative bodies of the States, will also show that no construction was contemplated before, or given afterwards, by any of them, of the language in which the self-evident truths are couched, such as is now required. Some of them make direct allusion to the existence and continuance of domestic slavery; and all of them confine the terms to the people—a term which was not understood to embrace the slaves.

The Virginia Declaration of Rights, (adopted June 12, 1776,) affirms "That all men are by nature equally free and independent," &c. That of Pennsylvania, September 28, 1776,) "That all men are born equally free and independent," &c. The corresponding utterance of Massachusetts is, "All men are born free and equal," &c. (Note C, p. 24.)

Other declarations and constitutions of sovereign States, in terms somewhat different but substantially the same, pronounce the purposes of government to be intended for, and its authority derived from, the whole people; that the people have the sole right of governing and regulating the internal police of the State; and that all power originates from the people. It would be difficult to connect these propositions with the class of slaves, which was obviously not in view of those who adopted them, although the language be comprehensive enough in one sense to embrace them all. When the Convention of New-York, in the name and by the authority of the good people of that State, ordained and determined that no authority should, on any pretence whatever, be exercised over the people or members of the State, but such as should be derived from and granted by them, they surely did not intend to be understood to speak in the name and by the authority of their yet remaining slaves—to ordain and determine as the representatives of a powerless and dependent race; or to insist that authority must be derived from, and granted by, those who had no authority to confer, no power to grant, and no privilege to restrain. (Note D, p. 25.)

These were domestic annunciations, intended, indeed, for the eye and observance of the world. They were framed, however, without any kindly stranger voice to warn the authors of them of the supposed inconsistencies or implied pledges that one and all contained. In the arrangements which were to be made with others, care was taken to provide for interests which, by the

proclamation of freedom, it is said were denounced and denied. Protection of slave property was mutually stipulated for in a treaty with the Delaware Indians, dated September 17, 1778. (Note E, p. 26.) Similar provisions have since been made, from time to time, in treaties with different tribes; but they are unimportant to the present object, which is to show the belief and understanding of the time.

The Delawares, it may be said, were a savage tribe, induced, perhaps, to adopt any language suggested by their more cunning invaders. Not so the great nation, which, after a seven years arduous struggle, reluctantly consented to see the brightest jewel struck from the British crown. The earliest treaties with what had been recently and for more than a century the proud parent of a colonial government, held language still more offensive to the ear, if it were inconsistent to the sense with the language of the same authors, when they proclaimed ALL MEN EQUAL, AND ENDOWED WITH LIBERTY. Adams and Franklin, in 1776, held those truths to be self-evident. Adams and Franklin, in 1783, associated with one of the truest of the patriots, and among the most sensitive and cautious of the statesmen of the day, as to the particular subject, (Mr. Jay,) vindicated the rights of the American inhabitants in colored persons AS PROPERTY. (Note F, p. 26.) Did these men set their seals to their own self-condemnation, and the condemnation of their countrymen? Did they then hear taunts from their foreign co-laborers in the work of negotiation, that the pledges of their nation, as it had justified or excused itself to "a candid world," were forfeited; or that they had already forgotten their professions of a "decent respect for the opinions of mankind?"

It may be remarked that the original draft of the Declaration of Independence contains words which are, if possible, more remote from ambiguity than those which were finally adopted. They are relied on here merely in confirmation of the undoubting sincerity which governed the authors of both the one and the other. (Note G, p. 26.)

Among the enemies of republican America, there were not wanting those who, at the moment, derided the justification and denounced the alleged inconsistency. All who boldly venture through revolution, upon an untried field of government, especially if the undertaking have to encounter certain peril in its progress, and uncertain chances of defeat and ruin in the result, must expect to bare their bosoms to the weapons of ridicule as well as steel. Firm in resolution, and undeviating in their onward march, these fathers of the republic went right on. They saw the means, and they used them, in honest disregard of traitorous opponents, until the great end was accomplished, and their country free. (Note H, p. 26.)

Allusion has been made to the language used by different members of the Continental Congress in debate. It was but an echo of the public voice abroad, and of the instructions given to the members by the Legislatures of the several Colonies. Had these members yielded up a control over the domestic policy or institutions of those Colonies respectively, the surrender would have been disaffirmed by their constituents. As a curious feature in the portrait of the time, and a strong corroboration of the positions which have been taken, a copy of these instructions is annexed. (Note I, p. 27.) The language of the Declaration in a great degree, and its sentiments almost throughout, may readily be traced through these interesting records. Much of both was in possession of the American people, even many years before. A pamphlet published in England during the rebellion of 1745, called "The Principles of the Whigs and Jacobites compared," contains expressions too much identified with

those of the Declaration, to permit the belief that the resemblance was accidental. It maintains "That all mankind are naturally free; that they are originally vested by God and nature with an unalienable right, and, along with that, are intrusted with a power to govern themselves by common consent, and to elect their own representatives and magistrates for that purpose; magistrates tied down in the exercise of their offices to the observance of certain laws, formed and ratified by the people themselves, or by their representatives, whom they have empowered so to do," &c.

Phrases were adopted by the compilers of the Declaration of Independence, which were familiar to the times, and they must be construed according to the understanding of the times. It is scarcely possible to believe that a solemn utterance, made in pursuance of continued and mature deliberation; that frequent fervent appeals to Heaven; that a manifesto which was to go abroad among the nations of the earth, and to pass down to a distant posterity, as a plea in behalf of the cause, and as the justification for separating ties of kindred and nation, could have been at variance with daily habits and domestic duties. It is still less to be believed that they who framed and uttered these expressions, who made those solemn appeals, who placed their hands to the manifesto, in the fear of Heaven and in the face of all mankind, could have misunderstood the universal language of the nation, when they adopted and approved it as their own. Least of all can the thought be harbored that men, who were ready to lay down their lives for the freedom of their children yet unborn, were practising towards them a shallow artifice, or offering deceitful pledges to the world. Let not those children now forget the honor to their sainted parents which nature and the stern commands of religion exact from them, "that *their* days may be long in the land which the Lord their God hath given them."

Many are the discoveries which later times have evolved in relation to revolutionary events. That the Declaration of Independence was not signed by any one on the 4th of July, but that it *was* formally subscribed on the 2d of August following, and then not by every member of the Convention, is matter of curious and accessible proof. That its signers were unacquainted with the meaning of their own words, or that they used them, fairly or falsely, in a sense different from that which their own lives and conduct proved them to imply, is a theory which gratitude and patriotism must frown upon, and the plainest rules of common sense deny. When some of them panted for the abolition, by law, of the odious slave-trade; when their patriotic successors, in the fulness of time, led on to the accomplishment of the work of humanity; when a Congress of the United States declared it to be piracy, and provided for it the punishment of death; when a treaty-making power of the same Government, after a long interval of time, united with another sovereign power in a mutual stipulation that each should prepare, equip, and maintain in service, on the coast of Africa, a naval force for the suppression of the slave-trade; and when, lamenting the facilities for carrying on the traffic and avoiding the vigilance of cruisers, (notwithstanding all efforts which may be made on the coast of Africa,) the parties to the treaty agreed that they would unite, in all becoming representations and remonstrances, with any and all powers within whose dominions markets for the purchase of African negroes are allowed to exist,—little did they suppose that they, or any of them, were pledging themselves to assume or exercise jurisdiction over the treatment or transfer of the subjects of domestic arrangement within the States and Territories of the nation.

Why should an arrangement, which was coeval with the Constitution, and engrafted upon it, be considered ephemeral? Why should not a compact,

solemnly and deliberately made, fully understood and fairly entered into, be perpetual? Why should not patriotic purposes, happy and harmonious in their origin, glorious in their exercise, and fruitful in their consequences, be cherished and preserved? Slavery exists and is protected in one section of the country; it is abrogated in another. The same relative feelings and judgments respecting it which prevailed formerly, remain in kind, if not in degree, unchanged. Union is as desirable, harmony and good will among the States are as much to be cultivated, as ever. The people are the same in their internal condition and their relations towards the world as they were in the year 1787. If a less extent of numbers rendered the whole nation feebler at a former period, and more exposed to encroachments from foreign enemies and dangerous neighbors, a greater extent of numbers which now makes them more powerful, enables them the more effectually to aid and support each other. If the system of slavery be indeed on the decline, and public sentiment be in truth rapidly accelerating its final extinction, without the necessity of external assaults, why not leave it to the doom which is supposed to await it? Nothing in the present numbers of the slave population, compared with its past extent, justifies neglect. Its actual increase has been great, although it has not kept pace with that of the whites. Two millions four hundred and eighty-six thousand two hundred and twenty-six of this description of persons in 1840, have succeeded to six hundred and fifty-seven thousand and forty-seven in 1790. This quadrupled mass of a separate race does not less require compromise and care, for the sake of an arrangement between those among whom exclusively is its abiding place, and the rest of the republican family, than it did when a fourth only of the number, formidable even then, was found. No matter whether the combination of races in its present form, the Caucassian master and the African slave, is to endure for ages, or, in the sure development of human affairs, is gradually to change its character; the necessity for existing provisions is, in either aspect, indispensably, and perhaps equally, required. The author to whose tables reference has been made, predicts, that among the grain and cattle-growing States, emancipation will be easier and sooner than where products are grown which require much labor and manipulation; and that in the order named, it will proceed. Whether the event be distant or near at hand, practicable or impracticable, is matter of speculation and surmise. We will not here indulge in an inquiry, which, however interesting in itself, is not embraced in the duties of this committee. The subscribers, knowing the system to exist and to be recognised in the Constitution, and believing that recognition to have been once essential to the formation, and now necessary to the preservation of the Union, have no desire to gratify or duty to perform, except to leave it upon the basis selected for it by those whose example it is wise to emulate, and whose counsels it is virtuous to obey.

J. R. INGERSOLL,
GARRETT DAVIS.

NOTES.

[NOTE A.]

Independent Chronicle, Boston, *Thursday, November* 21, 1776.

To Sell—A hearty, likely negro wench, about 12 or 13 years of age; has had the small pox; suitable for town or country; can wash, iron, card, and spin, &c.; for no other fault but for want of employ. Inquire of POWERS & WILLIS, (the Printers.)

Ranaway, last night, from James Mugford, of this town, a negro boy named Jack, about 10 years of age.—*Ibid.*

Continental Journal, Boston, Thursday, October 31, 1776.

All persons that have any demands on the estate of Mary Jackson, deceased, are desired to bring in their accounts to Nathaniel Shepard, administrator on said estate, in order for a settlement.

To be sold, for want of employ, *a likely negro man, that understands all sorts of house-work.* Inquire of said administrator.

To be Sold—A likely, healthy negro man, about 28 years of age; a good cook; fit for a gentleman's servant, either in town or country. Inquire of J. GILL, (the Printer.)

August 17, 1780.

To be Sold—A likely negro boy. Inquire of the Printer.

July 17, 1780.

Absconding Negro.—Absented herself from the subscriber, about eight months past, a negro woman, named Dinah, of a middling stature, very black complexion, and about 30 years of age.

April 13, 1780.

Ranaway from William Cotton, of Portsmouth, a negro man named Garrack.

Boston Gazette, Boston, April 10, 1780.

Ranaway from the subscriber, on Sunday, the 26th of March, a negro man named Cæsar, about 27 years of age.

[NOTE B.]

Boston Gazette, Monday, July 22, 1776.

Contains the Declaration of Independence:—and

"Thursday last, (July 18,) pursuant to an order of the honorable Council, was proclaimed from the balcony of the State House, in Boston, the Declaration of the American Congress, absolving the United Colonies from their allegiance to the British Crown, and declaring them free and independent States. There were present on the occasion, in the Council chamber, the Committee of Council, a number of the honorable House of Representatives, the magistrates, ministers, selectmen, and other gentlemen of Boston and the neighboring towns.

In the same paper—

To be Sold—A stout, healthy negro man, about 25 years of age; has had the small pox; can turn his hand to almost anything; he likes farming business the best; he is well clothed. The pay may be on interest, on giving security. Inquire of the Printer, (B. Edes.)

[NOTE C.]

Virginia Declaration of Rights, (reported by Committee, May 27, 1776.)

1. That all men are created equally free and independent, and have certain inherent natural rights, of which they cannot, by any compact, deprive or divest their posterity: among which are the enjoyments of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

2. That all power is, by God and nature, vested in, and, consequently, derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Virginia Declaration of Rights, adopted June 12, 1776.

ARTICLE I. That all men are by nature equally free and independent, and have certain inherent rights, of which, when they enter into a state of society, they cannot, by any compact, deprive or divest their posterity; namely: The enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety.

II. That all power is vested in, and, consequently, derived from, the people; that magistrates are their trustees and servants, and at all times amenable to them.

Pennsylvania Declaration of Rights, September 28, 1776.

That all men are born equally free and independent, and have certain natural, inherent, and inalienable rights; among which are the enjoying and defending life and liberty, acquiring, possessing, and protecting property, and pursuing and obtaining happiness and safety.

An act of March 1, 1780, was passed, for the gradual abolition of slavery.

October 1, 1781, "To give relief to certain persons taking refuge in this State, with respect to their slaves."

Report of a Constitution or form of Government for Massachusetts, October 28, 1779.—*Declaration of Rights.*

ARTICLE I. All men are born equally free and independent, and have certain natural, essential, and inalienable rights; among which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting their property; in fine, that of seeking and obtaining their safety and happiness.

Massachusetts Declaration of Rights, March 2, 1780.

ARTICLE II. All men are born FREE *and* EQUAL, and have certain natural, essential, and inalienable rights; amongst which may be reckoned the right of enjoying and defending their lives and liberties; that of acquiring, possessing, and protecting property; in fine, that of seeking and obtaining their safety and happiness.

Act of June 22, 1786, *p.* 15.

SECTION 7. That no person by this act authorized to marry, shall join in marriage any white person with any negro, Indian, or mulatto, on penalty of the sum of fifty pounds, two third parts thereof to the use of the county wherein such offence shall be committed, and the residue to the prosecutor, to be recovered by the treasurer of the same county, in manner aforesaid, and all such marriages shall be absolutely null and void.

[NOTE D.]

Constitution of New Jersey, July 2, 1776.

Whereas all the constitutional authority ever possessed by the Kings of Great Britain over these Colonies, or their other dominions, was, by compact, derived from the people, and held of them for the common interest of the whole society.

Delaware Declaration of Rights, September 11, 1776.

1. That all government of right originates from the people, is founded upon compact only, and instituted solely for the good of the whole.

4. That the people of this State have the sole, exclusive, and inherent right of governing and regulating the internal police of the same.

Maryland Declaration of Rights, October 31, 1776.

ARTICLE I. That all government of right originates from the people, is founded in compact only, and instituted solely for the good of the whole.

ARTICLE II. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

North Carolina Declaration of Rights, December 18, 1776.

1. That all political power is vested in, and derived from, the people only.

2. That the people of this State ought to have the sole and exclusive right of regulating the internal government and police thereof.

Constitution of Georgia, February 5, 1777.

And whereas the independence of the United States of America has been also declared, on the fourth day of July, one thousand seven hundred and seventy-six, by the said honorable Congress,

and all political connexion between them and the Crown of Great Britain is, in consequence thereof, dissolved.

We, therefore, the representatives of *the people, from whom all power originates, and for whose benefit all government is intended*, by virtue of the power delegated to us, do ordain and declare, and it is hereby ordained and declared, that the following rules and regulations be adopted for the future government of this State.

Constitution of New York, April 20, 1777.

This Convention, in the name and by the authority of the good people of this State, doth ordain, determine, and declare, that no authority shall, on any pretence whatever, be exercised over the people or members of this State, but such as shall be derived from, and granted by, them.

[NOTE E.]

Treaty with the Delawares, Fort Pitt, September 17, 1778.

ARTICLE 4. And it is further agreed between the parties aforesaid, that neither shall entertain or give countenance to the enemies of the other, or protect, in their respective States, *criminal fugitives, servants*, or *slaves*, but the same to apprehend and secure, and deliver to the State or States to which such *enemies, criminals, servants*, or *slaves*, respectively belong.

[NOTE F.]

Treaties with Great Britain. Provisional Articles, November 30, 1782, *by John Adams, B. Franklin, John Jay, and H. Laurens. Definitive Treaty, September* 3, 1783, *by John Adams, B. Franklin, and John Jay.*

ARTICLE 7. There shall be a firm and perpetual peace between his Britannic Majesty and the said States, and between the *subjects of the one and the citizens of the other;* wherefore all hostilities, both by sea and land, shall from henceforth cease; all prisoners on both sides shall be set at liberty; and his Britannic Majesty shall, with all convenient speed, *and without causing any destruction, or carrying away any negroes, or other property of the American inhabitants*, withdraw all his armies, garrisons, and fleets from the said United States, and from every post, place, and harbor within the same.

[NOTE G.]

Declaration of Independence.

We hold these truths to be self-evident: that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, and the pursuit of happiness; that to secure these rights governments are instituted among men, deriving their just powers from the consent of the governed.

Original Draft.

We hold these truths to be sacred and undeniable: that all men are created equal and independent; that from that equal creation they derive rights inherent and inalienable, among which are the preservation of life, liberty, and the pursuit of happiness; that to secure these ends, governments are instituted among men, deriving their just powers from the consent of the governed.

[NOTE H.]

Strictures upon the Declaration of the Congress at Philadelphia, in a Letter to a noble Lord, &c., London; from the "Remembrancer," vol. 4, *p.* 25.

This hint from your lordship indueed me to attempt a few strictures upon the Declaration Upon my first reading it, I thought there would have been more policy in leaving the world altogether ignorant of the motives of this rebellion, than in offering such false and frivolous reasons in support of it; and I flatter myself that, before I have finished this letter, your lordship will be of the same mind.

I should therefore be impertinent, if I attempted to show in what case a whole people may be justified in rising up in oppugnation to the powers of government, altering or abolishing them, and establishing, in whole or in part, new powers in their stead; or, in what sense all men are created equal; or, how far life, liberty, and the pursuit of happiness may be said to be inalienable; only I could wish to ask the delegates of Maryland, Virginia, and the Carolinas, how their constituents justify the depriving of more than one hundred thousand Africans of their rights to liberty and the pursuit of happiness, and, in some degree, of their lives, if these rights are so absolutely inalienable; nor shall I attempt to confute the absurd notion of government, or to expose the equivocal or inconclusive expressions contained in this Declaration; but rather to show the false representation made of the facts which are alleged to be the evidence of injuries and usurpations, and the special motives to rebellion.

[NOTE I.]

NORTH CAROLINA.

In Congress, North Carolina, April 12, 1776.

Resolved, That the delegates for this colony, in the Continental Congress, be empowered to concur with the delegates of the other colonies in declaring independency, and forming foreign alliances, *reserving to this colony the sole and exclusive right of forming a constitution and laws for this colony*, and of appointing delegates from time to time (under the directions of the general representation thereof) to meet the delegates of the other colonies for such purposes as shall hereafter be pointed out.

RHODE ISLAND.

In General Assembly, Rhode Island, May 4, 1776.

You are therefore hereby empowered to join with the delegates of the other United Colonies, in Congress, at Philadelphia, as soon as conveniently may be, or at such time and place as shall be agreed upon by the major part of the delegates from the said colonies. You are also authorized and empowered to consult and advise with the delegates of the said colonies in Congress, upon the most proper measures for promoting and confirming the strictest union and confederation between the said United Colonies, for exerting their whole strength and force to annoy the common enemy, and to secure the said colonies their rights and liberties, both civil and religious, whether by entering into treaties with any prince, state, or potentate, or by such other prudent and effectual ways and means as shall be devised and agreed on; and, in conjunction with the delegates from the said United Colonies, or the major part of them, to enter and adopt all such measures, *taking the greatest care to secure to this colony, in the strongest manner, its present established form, and all the powers of government, so far as it relates to its internal police and conduct of our own affairs, civil and religious.*

VIRGINIA.

In Convention, Virginia, May 15, 1776.

Resolved, unanimously, That the delegates appointed to represent this colony in General Congress be instructed to propose to that respectable body to declare the United Colonies free and independent States, absolved from all allegiance to, or dependence upon, the Crown or Parliament of Great Britain; and that they give the assent of this colony to such declaration, and to whatever measures may be thought proper and necessary by the Congress for forming foreign alliances, and a confederation of the colonies, at such time, and in the manner, as to them shall seem best: PROVIDED, *that the power of forming government for, and the regulating the internal concerns of, each colony, be left to the respective Colonial Legislatures.*

PENNSYLVANIA.

In Assembly, Pennsylvania, June 14, 1776.

We therefore hereby authorize you to concur with the other delegates in Congress, in forming such further compacts between the United Colonies, concluding such treaties with foreign kingdoms and states, and in adopting such other measures as, upon a view of all circumstances, shall be judged necessary for promoting the liberty, safety, and interests of America; *reserving to the people of this colony the sole and exclusive right of regulating the internal government and police of the same.*

CONNECTICUT.

In General Assembly, Connecticut, June 14, 1776.

Resolved, unanimously, by this Assembly, That the delegates of this colony in General Congress be, and they are hereby, instructed to propose to that respectable body to declare the United

Colonies free and independent States, absolved from all allegiance to the King of Great Britain, and to give the assent of this colony to such Declaration, when they shall judge it expedient and best; and to whatever measures may be thought proper and necessary by the Congress for forming foreign alliances, or any plan of operations for necessary and mutual defence; and, also, that they move and promote, as fast as may be convenient, a regular and permanent plan of union and confederation of the colonies, for the security and preservation of their just rights and liberties, and for mutual defence and security; *saving that the administration of government, and the power of forming governments for, and the regulation of, the internal concerns and police of each colony, ought to be left and remain to the respective Colonial Legislatures.*

NEW HAMPSHIRE.

In the House of Representatives, New Hampshire, June 15, 1776.

And whereas we, of this colony of New Hampshire, have the example of several of the most respectable of our sister colonies before us for entering upon that most important step of disunion from Great Britain, and declaring ourselves free and independent of the Crown thereof, being impelled thereto by the most violent and injurious treatment; and it appearing absolutely necessary, in this most critical juncture of our public affairs, that the honorable the Continental Congress, who have this important object under their immediate consideration, should be also informed of our resolutions thereon without loss of time, we do hereby declare that it is the opinion of this Assembly that our delegate at the Continental Congress should be instructed to join with the other colonies in declaring the thirteen United Colonies a free and independent state—solemnly pledging our faith and honor that we will, on our parts, support the measure with our lives and fortunes; and that, in consequence thereof, they, the Continental Congress, on whose wisdom, fidelity, and integrity we rely, may enter into, and form, such alliances as they may judge most conducive to the present safety and future advantage of these American Colonies: PROVIDED, *the regulation of our internal police be under the direction of our own Assembly.*

NEW JERSEY.

In Provincial Congress, New Jersey, June 21, 1776.

Resolved, That the following instructions be given to the delegates as aforesaid: The Congress empower and direct you, in the name of this colony, to join with the delegates of the other colonies in the Continental Congress, in the most vigorous measures for supporting the just rights and liberties of America; and, if you shall judge it necessary or expedient, for this purpose, we empower you to join with them in declaring the United Colonies independent of Great Britain, entering into a confederation for union and common defence, making treaties with foreign nations for commerce and assistance, and to take such other measures as may appear to them and you necessary for these great ends, promising to support them with the whole force of this Province: *Always observing that, whatever plan of confederacy you enter into, the regulating the internal police of this province is to be reserved to the colony legislature.*

PENNSYLVANIA.

In Convention, Pennsylvania, June 24, 1776.

We, the deputies of the people of Pennsylvania, assembled in full provincial conference for forming a plan for executing the resolve of Congress of the 15th of May last, for suppressing all authority in this Province derived from the Crown of Great Britain, and for establishing a government upon the authority of the people only, do, in this public manner, in behalf of ourselves, and with the approbation, consent, and authority of our constituents, unanimously declare our willingness to concur in a vote of the Congress declaring the United Colonies free and independent States: PROVIDED *the forming the government, and the regulation of the internal police of this colony, be always reserved to the people of the said colony.*

MARYLAND.

In Convention, Maryland, June 28, 1776.

Resolved unanimously, That the instruction given by the convention of December last (and renewed by the convention in May) to the deputies of this colony in Congress be recalled, and the restrictions therein contained removed; that the deputies of this colony attending in Congress, or a majority of them, or any three or more of them, be authorized and empowered to concur with the other United Colonies, or a majority of them, in declaring the United Colonies free and independent States, in forming such further compact and confederation between them, in making foreign alliances, and in adopting such other measures as shall be adjudged necessary for securing the liberties of America; and this colony will hold itself bound by the resolutions of the majority of the United Colonies, in the premises: PROVIDED, *the sole and exclusive right of regulating the internal government and police of this colony be reserved to the people thereof.*

SOUTH CAROLINA.

The instructions from South Carolina were expressed in general terms. They were adopted on the 23d of March, 1776, and before the final separation from Great Britain was determined upon. It appears very clear, however, from the preamble to the temporary constitution which was agreed to on the 26th of March, that the opinion of the Provincial Congress, in regard to their authority over the internal police of the colony, was the same with that more directly expressed by the other colonies.

In Congress, South Carolina, March 23, 1776.

Resolved, That the delegates of this colony in the Continental Congress, or a majority of such of them as shall at any time be present in the said Congress, or any one of the said delegates, if no more than one shall be present, be, and they and he are and is hereby authorized and empowered, for and in behalf of this colony, to concert, agree to, and execute, every measure which they or he, together with the majority of the Continental Congress, shall judge necessary for the defence, security, interest, or welfare, of this colony in particular, and of America in general.

In Congress, South Carolina, March 26, 1776.

Whereas, the British Parliament, claiming of late years the right to bind the North American colonies by law in all cases whatsoever, have enacted statutes for raising a revenue in those colonies, and disposing of such revenue as they thought proper, without the consent, and against the will of the colonists: And whereas, it appearing to them that (they not being represented in Parliament) such claim was altogether unconstitutional, and, if admitted, would at once reduce them from the rank of freemen to a state of the most abject slavery; the said colonies, therefore, remonstrated against the passing, and petitioned for the repeal of those acts, but in vain: And whereas, the said claim being persisted in, other unconstitutional and oppressive statutes have been since enacted, by which the powers of the admiralty courts in the colonies are extended beyond their ancient limits, and jurisdiction is given to such courts in cases similar to those which in Great Britain are triable by jury; persons are liable to be sent to, and tried in, Great Britain, for an offence created and made capital by one of those statutes, though committed in the colonies; the harbor of Boston was blocked up; people indicted for murder in the Massachusetts Bay may, at the will of the Governor, be sent for trial to any other colony, or even to Great Britain; the chartered constitution of government in that colony is materially altered; the English laws and a free government to which the inhabitants of Quebec were entitled by the King's royal proclamation, are abolished, and French laws are restored; the Roman Catholic religion (although before tolerated and freely exercised there) and an absolute government are established in that province, and its limits extended through a vast tract of country, so as to border on the free Protestant English settlements, with the design of using a whole people, differing in religious principles from the neighboring colonies, and subject to arbitrary power, as fit instruments to overawe and subdue the colonies: And whereas, the delegates of all the colonies on this continent, from Nova Scotia to Georgia, assembled in General Congress, at Philadelphia, in the most dutiful manner laid their complaints at the foot of the throne, and humbly implored their Sovereign that his royal authority and interposition might be used for their relief from the grievances occasioned by those statutes, and assured his Majesty that harmony between Great Britain and America, ardently desired by the latter, would be thereby immediately restored; and that the colonists confided in the magnanimity and justice of the King and Parliament for redress of the many other grievances under which they labored: And whereas, these complaints being wholly disregarded, statutes still more cruel than those above-mentioned have been enacted, prohibiting the intercourse of the colonies with each other, restricting their trade, and depriving many thousands of people of the means of subsistence, by restraining them from fishing on the American coast: And whereas, large fleets and armies having been sent to America, in order to enforce the execution of those laws, and to compel an absolute and implicit submission to the will of a corrupt and despotic Administration, and, in consequence thereof, hostilities having been commenced in the Massachusetts Bay by the troops under command of General Gage, whereby a number of peaceable, helpless, and unarmed people were wantonly robbed and murdered; and there being just reason to apprehend that the like hostilities would be committed on all the other colonies, the colonists were therefore driven to the necessity of taking up arms to repel force by force, and to defend themselves and their properties against lawless invasions and depredations: nevertheless, the delegates of the said colonies, assembled in another Congress at Philadelphia, anxious to procure a reconciliation with Great Britain, upon just and constitutional principles, supplicated his Majesty to direct some mode by which the united applications of his faithful colonists might be improved into a happy and permanent reconciliation; that, in the meantime, measures might be taken for preventing the further destruction of their lives; and that such statutes as immediately distressed any of the colonists might be repealed: And whereas, instead of obtaining that justice to which the colonists were, and are of right, entitled, the unnatural civil war into which they were thus precipitated, and are involved, hath been prosecuted with unremitted violence; and the Gov-

ernors and others bearing the royal commission in the colonies, having broken the most solemn promises and engagements, and violated every obligation of honor, justice, and humanity, have caused the persons of divers good people to be seized and imprisoned, and their properties to be forcibly taken and detained or destroyed, without any crime or forfeiture; excited domestic insurrections; proclaimed freedom to servants and slaves; enticed or stolen them from, and armed them against their masters; instigated and encouraged the Indian nations to war against the colonies; dispensed with the law of the land, and substituted martial law in its stead; killed many of the colonists; burnt several towns, and threatened to burn the rest; and daily endeavor, by a conduct which has sullied the British arms, and would disgrace even savage nations, to effect the ruin and destruction of the colonies: And whereas, a statute hath been lately passed, whereby, under pretence that the said colonies are in open rebellion, all trade and commerce whatsoever with them is prohibited; vessels belonging to their inhabitants trading in, to, or from the said colonies, with the cargoes and effects on board such vessels, are made lawful prize, and the masters and crews of such vessels are subjected, by force, to act on board the King's ships, against their country and dearest friends; and all seizures and detention or destruction of the persons and properties of the colonists which have at any time been made or committed, for withstanding or suppressing the said pretended rebellion, and which shall be made in pursuance of the said act, or for the service of the public, are justified; and persons suing for damages in such cases are, on failing in their suits, subjected to the payment of very heavy expenses: And whereas, large reinforcements of troops and ships have been ordered, and are daily expected in America, for carrying on war against each of the United Colonies, by the most vigorous exertions: And whereas, in consequence of a plan recommended by the Governors, and which seems to have been concerted between them and their ministerial masters, to withdraw the usual officers, and thereby loosen the bands of government, and create anarchy and confusion in the colonies, Lord William Campbell, late Governor, on the 15th day of September last, dissolved the General Assembly of this colony, and no other hath since been called, although, by law, the sittings and holdings of General Assemblies cannot be intermitted above six months; and, having used his utmost efforts to destroy the lives, liberties, and properties of the good people here, whom by the duty of his station he was bound to protect, withdrew himself from the colony, and carried off the great seal and the royal instructions to Governors: And whereas, the judges of the courts of law here have refused to exercise their respective functions, so that it is become indispensably necessary that, during the present situation of American affairs, and until an accommodation of the unhappy differences between Great Britain and America can be obtained, (an event which, though traduced and treated as rebels, we still earnestly desire,) some mode should be established by common consent, and for the good of the people, the origin and end of all government, *for regulating the internal polity of this colony*, the Congress being vested with powers competent for the purpose, and having fully deliberated concerning the premises, do therefore resolve, &c.

GEORGIA.

In Congress, Georgia, *April* 5, 1776.

At the same time, we also recommend it to you always to keep in view the general utility, remembering that the great and righteous cause in which we are engaged is not provincial, but continental. We, therefore, gentlemen, shall rely upon your patriotism, abilities, firmness, and integrity, to propose, join, and concur in all such measures as you shall think calculated for the common good, and to oppose all such as appear destructive.

MASSACHUSETTS.

Instructions of the town of Boston to their representatives in General Assembly, May, 1776.

Gentlemen: At a time when, in all probability, the whole united colonies of America are upon the verge of a glorious revolution, *and when, consequently, the most important questions that were ever agitated before the representative body of the colony, touching its internal police, will demand your attention*, your constituents think it necessary to instruct you on several matters what part to act, that the path of your duty may be plain before you.

We have seen the humble petitions of these colonies to the *King of Great Britain* repeatedly rejected with disdain. For the prayer of peace, he has tendered the sword; for liberty, chains; and for safety, death. He has licensed the instruments of his hostile oppressions to rob us of our property, to burn our houses, and to spill our blood. He has invited every barbarous nation, whom he could hope to influence, to assist him in prosecuting these inhuman purposes. The Prince, therefore, in support of whose crown and dignity, not many years since, we would most cheerfully have expended life and fortune, we are now constrained to consider as the worst of tyrants. Loyalty to him is now treason to our country. We have seen his venal Parliament so basely prostituted to his designs, that they have never hesitated to enforce his arbitrary requisitions with the most sanguinary laws. We have seen the people of Great Britain so lost to every sense of virtue and honor, as to pass over the most pathetic and earnest appeals to their justice, with an unfeeling indifference. The hopes we placed in their exertions have long since

failed. In short, we are convinced that it is the fixed and settled determination of the King, Ministry and Parliament of that island to conquer and subjugate the colonies, and that the people there have no disposition to oppose them.

A reconciliation with them appears to be as dangerous as it is absurd. A spirit of resentment once raised, it is not easy to appease. The recollection of past injuries will perpetually keep alive the flame of jealousy, which will stimulate to new impositions on one side, and consequent resistence on the other; and the whole body politic will be subject to civil commotions. We, therefore, think it absolutely impracticable for these colonies to be ever again subject to, or dependent upon, Great Britain, without endangering the very existence of the state. Placing, however, unbounded confidence in the supreme council of the Congress, we are determined to wait, most patiently to wait, till their wisdom shall dictate the necessity of making a Declaration of Independence. Nor should we have ventured to express our sentiments upon this subject, but from the presumption that the Congress would choose to feel themselves supported by the people of each colony, before they adopt a resolution so interesting to the whole. The inhabitants of this town, therefore, unanimously instruct and direct you, that, at the approaching session of the General Assembly, you use your endeavors that the delegates of this colony, at the Congress, be advised, that in case the Congress should think it necessary, for the safety of the United Colonies, to declare them independent of Great Britain, the inhabitants of this colony, with their lives, and the remnant of their fortunes, will most cheerfully support them in the measure.

Touching the internal police of this colony, it is essentially necessary, in order to preserve harmony among ourselves, that the constituent body be satisfied that they are fairly and fully represented. The right to legislate is originally in every member of the community, which right is always exercised in the infancy of a state; but when the inhabitants are become numerous, it is not only inconvenient, but impracticable for all to meet in one assembly; and hence arose the practice of legislating by a few, freely chosen by the many. When this choice is free, and the representation equal, it is the people's fault if they are not happy; we, therefore, instruct you to devise some means to obtain an equal representation of the people of this colony in the legislature; but care shou'd be taken that the assembly be not unwieldy; for this would be an approach to the evil meant to be cured by representation. The largest bodies of men do not always despatch business with the greatest expedition, nor conduct it in the wisest manner.

It is essential to liberty that the legislative, judicial, and executive powers of government be, as nearly as possible, independent of, and separate from, each other; for, where they are united in the same person, or number of persons, there should be wanting that mutual check which is the principal security against the making of arbitrary laws, and a wanton exercise of power in the execution of them. It is also of the highest importance that every person in the judiciary department employ the greatest part of his time and attention in the duties of his office. We therefore farther instruct you to procure the enacting of such law or laws as shall make it incompatible for the same person to hold a seat in the legislative and executive departments of government at one and the same time; that shall render the judges in every judiciary through the colony dependent, not on the uncertain tenure of caprice or pleasure, but on an unimpeachable deportment in the importa t duties of their station, for their continuance in office; and, to prevent the multiplicity of offices in the same person, that such salaries be settled upon them as will place them above the necessity of stooping to any indirect or collateral means for subsistence. We wish to avoid a profusion of the public moneys on the one hand, and the danger of sacrificing our liberties to a spirit of parsimony on the other. Not doubting of your zeal and abilities in the common cause of our country, we leave to your discretion to promote such exertions, in promoting any military operations, as the exigencies of our public affairs may require. And in the same confidence of your fervor and attachment to the public weal, we readily submit all other matters of public moment, that may require your consideration, to your own wisdom and discretion.

NEW YORK.

The delegates from New York received no instructions in 1776; but the following report of a committee, adopted by the Provincial Congress on the 27th of May, is sufficient to show what their views were.

IN PROVINCIAL CONGRESS, NEW YORK, *May* 27, 1776.

The order of the day being read, the Congress proceeded to hear the report of the committee on the resolution of the Continental Congress of the 15th of May, relating to a new form of Government. The same was read; and, being again read by paragraphs, in the words following, to wit:

1. That your committee are of opinion that the right of framing, creating, or new-modelling civil government is, and ought to be, in the people.

2. That, as the present form of government by Congress and committees in this colony, originated from, so it is dependent on the free and uncontrolled choice of the inhabitants thereof.

3. That the said form of government was instituted while the old form of government still

subsisted, and therefore is necessarily subject to many defects, which could not then be remedied by any new institutions.

4. That, by the voluntary abdication of the late Governor Tryon, the dissolution of the Assembly, for want of due prorogation, and the open and unwarrantable hostilities committed against the persons and properties of the inhabitants of all the United Colonies in North America, by the British fleets and armies, under the authority and by the express direction and appointment of the King, Lords, and Commons of Great Britain, the said old form of government is become *ipso facto* dissolved; *whereby it hath become absolutely necessary for the good people of this colony to institute a new and regular form of internal government and police, the supreme legislative and executive power in which should, for the present wholly reside and be within this colony, in exclusion of all foreign and external power, authority, dominion, jurisdiction, and pre-eminence whatsoever.*

5. That doubts have arisen whether this Congress are invested with sufficient authority to frame and institute such new form of *internal government and police.*

6. That these doubts can, and of right ought to be removed by the good people of this colony only.

7. That until such new form of *internal police and government* be constitutionally established, or until the expiration of the term for which this Congress was elected, this Congress ought to continue in the full exercise of their present authority; and, in the mean time, ought to give the good people of each several and respective county in this colony full opportunity to remove the said doubts, either by declaring their respective representatives in this Congress, in conjunction with the representatives of the other counties respectively, competent for the purpose of establishing such new form of *internal police and government*, and increasing (if they should deem it necessary) the number of deputies from each county, with the like powers as are now vested in this Congress, and with express authority to institute and establish such new and *internal form of government and police* as aforesaid.

8. That therefore this House take some order, to be publicly notified throughout the several counties in this colony, whereby the inhabitants of each county respectively, on a given day, to be appointed in each of them respectively, by this Congress, for the purpose, may, by plurality of voices, either confirm their present representatives respectively, in this Congress, in their present power, and with express authority, in conjunction with the representatives in this Congress for the other counties, to constitute a new *internal form of government and police* for this colony, suited to the present critical emergency; and to continue in full force and effect until a future peace with Great Britain shall render the same unnecessary; or elect new members for that purpose, to take seats in Congress, in place of those members, respectively, who shall not be so confirmed: the whole number to be capable of such addition or increase in each respective county as aforesaid.

The said report being considered, was accepted; and a committee appointed to frame it into resolution to be published.